

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Betty Balimunkwe,

Plaintiff,

v.

Star Transportation, Inc.,

Covenant Transport, Inc.,

and

Johnny Phillips,

Defendants.

Case No.

Judge

**NOTICE OF REMOVAL**

Defendants Star Transportation, Inc., Covenant Transport, Inc., and Johnny Phillips (collectively “Defendants”) remove this action from the Court of Common Pleas, Wood County, Ohio, to the United States District Court, Northern District of Ohio, Western Division.

As grounds for removal, Defendants state as follows:

1. On January 6, 2021, Plaintiff commenced this action for personal injury against Defendants in the Wood County Court of Common Pleas, Case No. 2021CV0009, captioned *Betty Balimunkwe v. Star Transportation, Inc.*, et al. The lawsuit arises out of an alleged vehicle collision on January 8, 2019, on Interstate 75 in Wood County, Ohio. The summons and complaint and all filings in the state court action are attached as Exhibit A.

2. Defendant Star Transportation, Inc. is a limited liability company organized and operating under the laws of the State of Tennessee. Its principal office is located at 1234 Bridgestone Parkway, La Vergne, Rutherford County, Tennessee 37086-3509. At the time of removal its sole member is Landair Holdings, Inc., a resident of the State of Tennessee. Its

principal place of business is located at 1110 Myers Street, Greeneville, Greene County, Tennessee 37743.

3. Defendant Covenant Transport, Inc. is a domestic corporation, incorporated and operating under the laws of the State of Tennessee. Its principal place of business is located at 400 Birmingham Highway, Chattanooga, Hamilton County, Tennessee 37086-3509.

4. Defendant Johnny Phillips is a resident of Tennessee. He resides at 725 Bilbrey Road, Rickman, Overton County, Tennessee 37203.

5. All defendants consent to removal.

6. Plaintiff Betty Balimunkwe, according to the caption of the *Complaint* and paragraph 1 thereof, is a resident of Ann Arbor, Washtenaw County, Michigan. No allegations or information have been presented to suggest that Ms. Balimunkwe's domicile is anywhere other than only the State of Michigan.

7. Thirty days have not passed from the date of service and filing of Plaintiff's *Complaint*.

8. Plaintiff's *Complaint* prays for an award of "compensatory damages in an amount exceeding twenty-five thousand dollars . . . and for any other relief, whether legal or equitable, the Court deems appropriate." The *Complaint* also alleges that Plaintiff has suffered severe and permanent injuries to her back, neck, head, eyes, shoulders, legs, hips, and feet, causing severe and permanent pain and suffering, and that her medical expenses, as of the date of filing the *Complaint*, exceed \$240,000.00. The *Complaint* alleges that Plaintiff has suffered an unspecified wage loss and an unspecified impairment to her earning capacity. The *Complaint* alleges that Plaintiff required home health services of an unspecified value. Insofar as the *Complaint* alleges that Plaintiff will continue to incur medical expenses, it may be inferred that Plaintiff has not yet recovered from her alleged injuries.

9. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), because there is complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Though the prayer for relief expresses damages only in excess of \$25,000.00, the extent of her alleged injuries, medical expenses, and unspecified lost wages and earning capacity combine to demonstrate that the threshold for diversity jurisdiction is satisfied. Plaintiff's limited prayer for relief complies with Ohio Civ.R. 8(A), which applicably prohibits the pleading party from specifying any damages value in excess of \$25,000.00.

10. Removal to this Court is proper under 28 U.S.C. § 1441(a), because this Court is the United States District Court for the district where the state court action was pending, the Court of Common Pleas for Wood County, Ohio.

11. Defendants reserve the right to supplement this *Notice of Removal* and present additional arguments in support thereof.

12. A *Notice of Filing* relative to the within *Notice of Removal* and a copy of the *Notice of Removal* will be filed with the Court of Common Pleas, Wood County, Ohio, as required by 28 U.S.C. § 1446(d).

13. By virtue of this *Notice of Removal*, the *Notice* filed in the state court action, and the notice to Plaintiff, Defendant does not waive its right to assert any defense or motion permitted by the Federal Rules of Civil Procedure. Further, no admission of fact, law, or liability is intended or made by this *Notice of Removal*, and all defenses, affirmative defenses, and motions are reserved.

For the forgoing reasons, Defendants Star Transportation, Inc., Covenant Transport, Inc., and Johnny Phillips serve notice that this action is hereby removed from the Court of Common Pleas, Wood County, Ohio, to the United States District Court for the Northern District of Ohio, Western Division.

Respectfully submitted,

/s/ Joseph S. Center

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*Counsel for Defendants*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served by electronic and/or regular U.S. mail on the 1<sup>st</sup> day of February, 2021, upon the following:

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/s/ Joseph S. Center

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